

# EXHIBIT A

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:01-cv-10143-PBS**

Baron v. Hickey, et al  
Assigned to: Judge Patti B. Saris  
Referred to:  
Demand: \$0  
Lead Docket: None  
Related Cases: None  
Case in other court: None  
Cause: 28:1441 Notice of Removal

Date Filed: 01/25/01  
Jury Demand: Defendant  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

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**Bruce Baron**

represented by **Carolyn Conway**  
DiMento & Sullivan  
7 Faneuil Marketplace  
Boston, MA 02109-1649  
523-2345  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**V.**

**Defendant**

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**Daniel Hickey, Suffolk County Sheriff's  
Department**

represented by **Douglas I. Louison**  
Merrick, Louison & Costello  
67 Batterymarch Street  
Boston, MA 02110  
617-439-0305  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Kathleen M. Cawley**  
Suffolk County Sheriff's Department  
200 Nashua Street  
Boston, MA 02114  
617-989-6680  
Fax : 617-989-6693  
Email: Kathy\_Cawley@scsdma.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Stephen C. Pfaff**  
Merrick, Louison & Costello  
Suite 3  
67 Batterymarch Street  
Boston, MA 02110  
617-439-0305  
Fax : 617-439-0325  
Email: spfaff@merricklc.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Sheriff of Suffolk County**

represented by **Kathleen M. Cawley**  
(See above for address)

Suffolk County Sheriff's Department

*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

represented by **Kathleen M. Cawley**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

Cross Claimant

**Daniel Hickey**

represented by **Douglas I. Louison**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Stephen C. Pfaff**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

V.

Cross Defendant

**Sheriff of Suffolk County**

Cross Claimant

**Daniel Hickey**

represented by **Douglas I. Louison**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Kathleen M. Cawley**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

**Stephen C. Pfaff**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

V.

Cross Defendant

**Bruce Baron**

represented by **Carolyn Conway**  
(See above for address)  
*LEAD ATTORNEY  
ATTORNEY TO BE NOTICED*

Filing Date	#	Docket Text

01/25/2001	<u>1</u>	Notice of Removal filed. Received from: Suffolk Superior Court; State Court Docket #: 01-0067. Assigned to: Honorable Patti B. Saris Receipt #: 28315 Amount: \$ 150.00. Fee status: pd (pc) (Entered: 01/25/2001)
01/30/2001	2	State Court Record, copy of Notice of Removal sent to State Court, filed. (pc) (Entered: 01/30/2001)
01/31/2001	3	Consent of removal (pc) (Entered: 02/02/2001)
02/14/2001	4	Motion by Daniel Hickey to extend time to March 9, 2001 to respond to complaint , filed, c/s. (pc) (Entered: 02/14/2001)
02/14/2001		Judge Patti B. Saris. Endorsed Order entered granting [4-1] motion to extend time to March 9, 2001 to respond to complaint. [EOD Date 2/14/01], cc/cl. (pc) (Entered: 02/14/2001)
03/08/2001	5	Motion by Daniel Hickey to dismiss pursuant to Fed.R.Civ.P. 12 (b)(6) , filed, c/s. (pc) (Entered: 03/08/2001)
03/08/2001	6	Memorandum by Daniel Hickey in support of [5-1] motion to dismiss pursuant to Fed.R.Civ.P. 12 (b)(6), filed, c/s. (pc) (Entered: 03/08/2001)
03/12/2001	<u>7</u>	Answer to complaint; jury demand by Daniel Hickey and cross-claim against Sheriff of Suffolk, filed, c/s. (pc) (Entered: 03/12/2001)
03/13/2001	8	Judge Patti B. Saris. Notice of Scheduling conference: set scheduling conference for 3:15 on 4/26/01 , cc/cl. (pc) (Entered: 03/13/2001)
03/13/2001	9	Judge Patti B. Saris. Procedural Order entered re: Initial Scheduling Conference. [EOD Date 3/13/01], cc/cl. (pc) (Entered: 03/13/2001)
03/16/2001	10	Motion by Bruce Baron to extend time to April 13, 2001 to file response to Defendants' Suffolk County Sheriff's Department and Sheriff of Suffolk County's Motion to Dismiss Pursuant to Federal R. Civ. P. 12.(b)(6) , filed, c/s. (pc) (Entered: 03/16/2001)
03/22/2001		Judge Patti B. Saris. Endorsed Order entered granting [10-1] motion to extend time to April 13, 2001 to file response to Defendants' Suffolk County Sheriff's Department and Sheriff of Suffolk County's Motion to Dismiss Pursuant to Federal R. Civ. P. 12.(b)(6). [EOD Date 3/22/01], cc/cl. (pc) (Entered: 03/22/2001)
04/12/2001	11	Response by Bruce Baron in opposition to [5-1] motion to dismiss pursuant to Fed.R.Civ.P. 12 (b)(6), filed, c/s. (pc) (Entered: 04/16/2001)
04/12/2001	12	Memorandum by Bruce Baron in support of [11-1] opposition response to motion to dismiss pursuant to Fed.R.Civ.P. 12(b)(6), filed, c/s. (pc) (Entered: 04/16/2001)
06/12/2001	<u>13</u>	Judge Patti B. Saris . Notice of Hearing/conference: set scheduling conference for 2:15 7/19/01 . cc/cl (fmr) (Entered: 06/12/2001)
06/12/2001	<u>14</u>	Judge Patti B. Saris . Procedural Order entered re: Initial Scheduling Conference . [EOD Date 6/12/01] cc/cl (fmr) (Entered: 06/12/2001)
06/13/2001		Judge Patti B. Saris. Endorsed Order entered granting [5-1] motion to dismiss pursuant to

		Fed.R.Civ.P. 12 (b)(6). "Allowed with respect to count Six (Intentional Infliction of Emotional Distress) against the sheriff and the county, otherwise denied." [EOD Date 6/18/01], cc/cl. (pc) (Entered: 06/18/2001)
07/11/2001	15	Notice of appearance of attorney for Daniel Hickey, Sheriff of Suffolk by Kathleen M. Cawley, filed. (pc) (Entered: 07/12/2001)
07/18/2001	16	Joint statement by Bruce Baron, Daniel Hickey, Sheriff of Suffolk, re: Local Rule 16, filed. (pc) (Entered: 07/18/2001)
07/19/2001		Scheduling conference held. (pc) (Entered: 07/19/2001)
07/19/2001	17	Judge Patti B. Saris. Clerk's Notes: re: Scheduling Conference held, court adopts 16.1 joint statement as the case scheduling order, fact discovery deadline; 12/31/01, summary judgment motions filing deadline: 1/31/02, oppositions to summary judgment motions filing deadline: 2/23/02, case to be referred to ADR program: Fall, 2001, set motion filing deadline for 2/23/02, set discovery due for 12/31/01 Court Reporter: (pc) (Entered: 07/19/2001)
07/19/2001	18	Judge Patti B. Saris. Scheduling Order entered setting 12/31/01 for discovery deadline. [EOD Date 7/19/01], cc/cl. (pc) (Entered: 07/19/2001)
07/19/2001	19	Judge Patti B. Saris. Order of reference entered for Alternative Dispute Resolution. Referred to: Senior Judges for: Mediation, civil rights (pc) (Entered: 07/19/2001)
10/10/2001	20	Notice of assignment of ADR Provider issued. Assigned to: Judge Skinner for: Mediation (pc) (Entered: 10/10/2001)
10/22/2001	<u>21</u>	Answer by Daniel Hickey, Sheriff of Suffolk to complaint; jury demand, filed. (pc) (Entered: 10/22/2001)
10/23/2001	22	Report by Walter J Skinner of Alternative Dispute Resolution proceedings. The case was: not settled. Further efforts to settle this case at this time are, in my judgment unlikely to be productive. (pc) (Entered: 10/24/2001)
10/24/2001		Case no longer referred to ADR. (pc) (Entered: 10/24/2001)
01/30/2002	23	Joint motion by Bruce Baron, Daniel Hickey, Sheriff of Suffolk to extend Scheduling order to establish the following dates; discovery-5/31/02, S/J motions-6/28/02, oppositions to S/J motions by 7/19/02, filed. (ms) (Entered: 01/30/2002)
01/31/2002		Judge Patti B. Saris. Endorsed Order entered granting [23-1] joint motion to extend Scheduling order to establish the following dates; discovery-5/31/02, S/J motions-6/28/02, oppositions to S/J motions by 7/19/02, set discovery due for 5/31/02, set S/J motion filing deadline for 6/28/02, Response to S/J motion ddl-7/19/02 .cc/cl [EOD Date 2/1/02] (ms) (Entered: 02/01/2002)
06/17/2002	24	Second Joint motion by Bruce Baron, Daniel Hickey to extend scheduling order, filed. (ms) (Entered: 06/19/2002)
07/01/2002		Judge Patti B. Saris. Endorsed Order entered denying [24-1] joint motion to extend scheduling order, The parties may have an extra 2 weeks to file motions for S/J and oppositions. reset motion filing deadline for 7/12/02, Response to S/J motion due 8/2/02

		cc/cl. [EOD Date 7/2/02] (ms) (Entered: 07/02/2002)
07/12/2002	29	Motion by Sheriff of Suffolk, Suffolk County Sher for summary judgment , filed. (ms) (Entered: 07/15/2002)
07/12/2002	30	Statement of undisputed Facts by Sheriff of Suffolk, Suffolk County Sher re: [29-1] motion for summary judgment filed. (ms) (Entered: 07/15/2002)
07/12/2002	31	Memorandum by Sheriff of Suffolk, Suffolk County Sher in support of [30-1] statement, [29-1] motion for summary judgment, filed. (ms) (Entered: 07/15/2002)
08/01/2002	32	Response by Bruce Baron in opposition to [29-1] motion for summary judgment , filed. (ms) (Entered: 08/02/2002)
08/01/2002	33	Memorandum by Bruce Baron in support of [32-1] opposition response to motion for Summary Judgement, filed. (ms) (Entered: 08/02/2002)
08/06/2002	34	Judge Patti B. Saris. Notice of motion Hearing: Motion hearing set for 3:15 10/17/02 for [29-1] motion for summary judgment . cc/cl (ms) (Entered: 08/06/2002)
08/07/2002	35	Motion by Sheriff of Suffolk for leave to file reply to pltfs opposition to defts motion for S/J , filed. (ms) (Entered: 08/07/2002)
08/09/2002	36	Judge Patti B. Saris. Notice of Hearing/conference: Motion hearing set for 2:00 10/31/02 for [29-1] motion for summary judgment . cc/cl (ms) (Entered: 08/12/2002)
08/12/2002	37	Response by Bruce Baron in opposition to [35-1] motion for leave to file reply to pltfs opposition to defts motion for S/J, filed. c/s (ms) (Entered: 08/13/2002)
10/31/2002		Motion hearing re: [29-1] motion for summary judgment Motion hearing held (ms) (Entered: 11/18/2002)
10/31/2002	40	Judge Patti B. Saris. Clerk's Notes: re: Motion hearing Court hears argument of counsel. Parties to supplement within 2 weeks. Parties to then file replies within one week therefrom. [29-1] motion for summary judgment taken under advisement Court Reporter: Marie Cloonan (ms) (Entered: 11/18/2002)
11/13/2002	38	Motion by Bruce Baron To supplement opposition to deft's motion for S/J , filed. (ms) (Entered: 11/14/2002)
11/14/2002	39	Response by Daniel Hickey, Sheriff of Suffolk in opposition to [32-1] opposition response, filed. (ms) (Entered: 11/18/2002)
11/21/2002	41	Reply by Bruce Baron to Pltfs [39-1] opposition response to pltfs opposition to defts motion for S/J, filed. (ms) (Entered: 11/22/2002)
11/21/2002	42	Response by Daniel Hickey, Sheriff of Suffolk in opposition to [38-1] motion To supplement opposition to deft's motion for S/J, filed. (ms) (Entered: 11/22/2002)
12/03/2002	43	Motion by Daniel Hickey, Sheriff of Suffolk to strike [41-1] references in reply , filed. (ms) (Entered: 12/04/2002)

01/22/2003		Terminated document:[35-1] motion for leave to file reply to pitfs opposition to defts motion for S/J Requested by rca. (rca) (Entered: 01/22/2003)
01/31/2003	<u>44</u>	Judge Patti B. Saris . Memorandum and Order entered. After hearing, the [29-1] motion for summary judgment is allowed in part and denied in part. The motion for S/J by the county is ALLOWED with respect to the Mass civil Rights act claim, but DENIED with respect to the remaining claims. The Sheriffs motion for Summary Judgement on the ground of qualified immunity is ALLOWED. cc/cl [EOD Date 2/4/03] (ms) (Entered: 02/04/2003)
02/06/2003	45	Judge Patti B. Saris. Notice of Final pretrial conference and Jury trial: set pretrial conference for 2:00 4/28/03 , set Jury trial for 9:00 5/5/03 cc/cl. (ms) (Entered: 02/06/2003)
02/06/2003	<u>46</u>	Judge Patti B. Saris. Pretrial Order entered. Jury Trial -5/5/03 at 9:00; Final pretrial cnf- 4/28/03 at 2:00; expert disclosures by 2/27/03; Pretrial disclosures by 3/28/03; Objections to pretrial disclosures by 4/11/03; Joint pretrial memorandum by 4/21/03; file/serve proposed jury instr., motions in lim, witness/exhibit list by 4/14/03; file/serve oppositions to motions by 4/21/03; trial briefs by 4/28/03. cc/cl [EOD.Date 2/6/03] (ms) (Entered: 02/06/2003)
03/12/2003	<u>47</u>	Motion by Daniel Hickey, Sheriff of Suffolk to bifurcate , filed. (ms) (Entered: 03/12/2003)
03/12/2003	<u>48</u>	Memorandum by Daniel Hickey, Sheriff of Suffolk in support of [47-1] motion to bifurcate , filed. (ms) (Entered: 03/12/2003)
03/21/2003	<u>49</u>	Response by Bruce Baron in opposition to [47-1] motion to bifurcate, filed. (ms) (Entered: 03/24/2003)
03/24/2003		Judge Patti B. Saris. Endorsed Order entered denying [47-1] motion to bifurcate. cc/cl [EOD Date 3/26/03] (ms) (Entered: 03/26/2003)
03/26/2003	50	Judge Patti B. Saris. Notice of Rescheduled final pretrial conference: reset pretrial conference for 3:30 4/29/03 cc/cl. (ms) (Entered: 03/26/2003)
03/26/2003	51	Joint motion by Bruce Baron, Daniel Hickey, Sheriff of Suffolk to continue trial date , filed. (ms) (Entered: 03/27/2003)
03/26/2003	<u>52</u>	Affidavit of Kathleen M. Cawley, re: [51-1] joint motion to continue trial date, filed. (ms) (Entered: 03/27/2003)
03/28/2003	<u>53</u>	Pretrial disclosure pursuant to Rule 26(a)(3) by Sheriff of Suffolk filed. (ms) (Entered: 03/31/2003)
03/31/2003		Judge Patti B. Saris. Endorsed Order entered denying [51-1] joint motion to continue trial date. Denied, However, if you are on trial before Judge O'Toole, I will move it to the next week. cc/cl [EOD Date 4/1/03] (ms) (Entered: 04/01/2003)
03/31/2003	<u>54</u>	Pretrial disclosure pursuant to Rule 26(a)(3) by Bruce Baron filed. (ms) (Entered: 04/02/2003)
04/09/2003	55	Objection by Bruce Baron re: Evidence in Defts Pretrial Disclosure, filed. (ms) (Entered: 04/09/2003)
04/10/2003	<u>56</u>	Objection by Sheriff of Suffolk re: [54-1] Pltfs pretrial disclosure, filed. (ms) (Entered: 04/10/2003)

		04/10/2003)
04/14/2003	<u>57</u>	Proposed Jury instructions by Bruce Baron , filed. (ms) (Entered: 04/14/2003)
04/14/2003	<u>58</u>	Proposed voir dire questions by Bruce Baron , filed. (ms) (Entered: 04/14/2003)
04/14/2003	<u>59</u>	Motion by Bruce Baron in limine , filed. (ms) (Entered: 04/14/2003)
04/14/2003	<u>60</u>	Witness/exhibit list by Bruce Baron , filed. (ms) (Entered: 04/14/2003)
04/14/2003	63	Proposed voir dire questions by Suffolk County Sher , filed. (ms) (Entered: 04/15/2003)
04/14/2003	64	Motion by Suffolk County Sher in limine to exclude the introduction of the stern commission report , filed. (ms) (Entered: 04/15/2003)
04/14/2003	65	Motion by Suffolk County Sher in limine to allow questioning of the pltf regarding allegation of sexual misconduct , filed. (ms) (Entered: 04/15/2003)
04/14/2003	66	Motion by Suffolk County Sher in limine to admit evidence of allegations of misconduct by the pltf , filed. (ms) (Entered: 04/15/2003)
04/14/2003	67	Witness/exhibit list by Suffolk County Sher, filed. (ms) (Entered: 04/15/2003)
04/14/2003	68	Pretrial disclosure pursuant to Rule 26(a)(3) by Suffolk County Sher filed. (ms) (Entered: 04/15/2003)
04/14/2003	69	Memorandum by Suffolk County Sher in support of [59-1] motion in limine, filed. (ms) (Entered: 04/15/2003)
04/15/2003	61	Judge Patti B. Saris. Notice of rescheduled jury trial: reset Jury trial for 9:00 5/12/03 . The final pretrial conference remains as scheduled for 4/29/03 at 3:30. cc/cl (ms) (Entered: 04/15/2003)
04/15/2003	62	Proposed Jury instructions by Suffolk County Sher , filed. (ms) (Entered: 04/15/2003)
04/18/2003	<u>70</u>	Assented To Motion by Daniel Hickey to continue trial , filed. (ms) (Entered: 04/18/2003)
04/18/2003	<u>71</u>	Motion by Daniel Hickey To conduct Pltfs deposition , filed. (ms) (Entered: 04/18/2003)
04/21/2003	72	Response by Suffolk County Sher in opposition to [57-1] instructions jury , filed. (ms) (Entered: 04/22/2003)
04/21/2003	73	Joint memorandum by Bruce Baron, Daniel Hickey, Sheriff of Suffolk re: pretrial, filed. (ms) (Entered: 04/22/2003)
04/21/2003	74	Motion by Bruce Baron to amend complaint , filed. (ms) (Entered: 04/22/2003)
04/21/2003	75	Response by Bruce Baron in opposition to [66-1] motion in limine to admit evidence of allegations of misconduct by pltf, filed. (ms) (Entered: 04/22/2003)



04/21/2003	76	Response by Bruce Baron in opposition to [71-1] motion To conduct Pltfs deposition , filed. (ms) (Entered: 04/22/2003)
04/24/2003		Judge Patti B. Saris. Endorsed Order entered denying [70-1] motion to continue trial. Denied as untimely, also, there are two attys for Mr. Hickey. cc/cl [EOD Date 4/24/03] (ms) (Entered: 04/24/2003)
04/25/2003	77	Proposed Jury instructions by Daniel Hickey, filed. (ms) (Entered: 04/25/2003)
04/25/2003	78	Witness/exhibit list by Daniel Hickey, filed. (ms) (Entered: 04/25/2003)
04/25/2003	79	Pretrial disclosure pursuant to Rule 26(a)(3) by Daniel Hickey filed. (ms) (Entered: 04/25/2003)
04/25/2003	80	Motion by Daniel Hickey in limine to admit evidence of allegations of misconduct , filed. (ms) (Entered: 04/25/2003)
04/25/2003	81	Motion by Daniel Hickey in limine to allow questioning of the pltfs regarding allegations of sexual misconduct , filed. (ms) (Entered: 04/25/2003)
04/25/2003	82	Motion by Daniel Hickey in limine to exclude the introduction of the Stearn Commission Report , filed. (ms) (Entered: 04/25/2003)
04/25/2003	83	Proposed voir dire questions by Daniel Hickey , filed. (ms) (Entered: 04/25/2003)
04/29/2003		Pre-trial conference held. (ms) (Entered: 04/30/2003)
04/29/2003	84	Judge Patti B. Saris. Clerk's Notes: re: Final pretrial cnf; Pltfs counsel informs the court that the case will go forward to trial. Court discusses with counsel various evidentiary issues. Court Reporter: Lee Marzilli (ms) (Entered: 04/30/2003)
05/01/2003		Terminated document: [38-1] motion To supplement opposition to deft's motion for S/J. Requested by rca. (rca) (Entered: 05/01/2003)
05/01/2003		Terminated document: [43-1] motion to strike [41-1] references in reply Requested by rca. (rca) (Entered: 05/01/2003)
05/06/2003	<u>85</u>	Trial Brief by Daniel Hickey, Sheriff of Suffolk, filed. (ms) (Entered: 05/07/2003)
05/08/2003	<u>86</u>	Trial Brief by Bruce Baron, filed. (ms) (Entered: 05/09/2003)
05/08/2003	<u>87</u>	Answer by Daniel Hickey to amended complaint, filed.; jury demand (ms) (Entered: 05/09/2003)
05/08/2003	87	Crossclaim by Daniel Hickey against Bruce Baron, filed. (ms) (Entered: 05/09/2003)
05/08/2003	<u>88</u>	Trial brief by Daniel Hickey, filed. (ms) (Entered: 05/09/2003)
05/08/2003		Judge Patti B. Saris. Endorsed Order entered denying [71-1] motion To conduct Pltfs deposition. cc/cl [EOD Date 5/9/03] (ms) (Entered: 05/09/2003)

05/12/2003		Jury trial held. day 1 (ms) (Entered: 05/13/2003)
05/12/2003	89	Judge Patti B. Saris. Clerk's Notes: re: Jury Trial; Voir dire held; Jury empaneled. Jury sworn; Judge gives preliminary instructions to jury; Counsel make opening arguments. pltf's present its case. Court recesses at 1:00 for lunch; resumes; court recesses at 3:45 Court Reporter: Lee Marzilli (ms) (Entered: 05/13/2003)
05/13/2003		Jury trial held day 2. (ms) (Entered: 05/13/2003)
05/13/2003	90	Judge Patti B. Saris. Clerk's Notes: re: jury trial Court Reporter: Lee Marzilli (ms) (Entered: 05/13/2003)
05/14/2003		Jury trial held . (ms) (Entered: 05/15/2003)
05/14/2003	91	Judge Patti B. Saris. Clerk's Notes: re: Jury Trial; Day 3. Court recesses at 12:55pm; After jury is dismissed for the day, Court hears argument of various dispositive motions. Court makes rulings on the record in open court. Court Reporter: Janet Konarski (ms) (Entered: 05/15/2003)
05/14/2003	97	MOTION for Judgment as a Matter of Law at the close of Pltfs case by Daniel Hickey. (Simeone, Maria) (Entered: 05/20/2003)
05/14/2003	98	MOTION for Directed Verdict by Sheriff of Suffolk County.(Simeone, Maria) (Entered: 05/20/2003)
05/15/2003	92	Electronic Clerk's Notes for proceedings held before Judge Patti B. Saris : Jury Trial completed on 5/15/2003. see imaged clerk note (Court Reporter Janet Konarski.) (Simeone, Maria) (Entered: 05/20/2003)
05/15/2003	93	SPECIAL JURY VERDICT in favor of Plaintiff, Baron against Deft, Hickey, suffolk County. (Simeone, Maria) (Entered: 05/20/2003)
05/15/2003	94	Jury trial Witness List. (Simeone, Maria) (Entered: 05/20/2003)
05/15/2003	95	Jury trial Exhibit List. (Simeone, Maria) (Entered: 05/20/2003)
05/15/2003	96	STIPULATION re: documents submitted to Investigator by Bruce Baron, Daniel Hickey, Sheriff of Suffolk County. (Simeone, Maria) (Entered: 05/20/2003)
05/15/2003		Judge Patti B. Saris : Electronic ORDER entered re: 97 Motion for Judgment as a Matter of Law; The claims of assault and battery and defamation are time-barred. Otherwise denied (Simeone, Maria) (Entered: 05/20/2003)
05/15/2003		Judge Patti B. Saris : Electronic ORDER entered re: 99 Motion for Directed Verdict. Denied, with respect to the common law claim. (Simeone, Maria) (Entered: 05/20/2003)
05/16/2003	100	Judge Patti B. Saris : ORDER entered JUDGMENT in favor of Deft, Hickey against Pltf, Baron(Simeone, Maria) (Entered: 05/20/2003)
05/20/2003	99	MOTION for Directed Verdict by Suffolk County Sheriff's Department.(Simeone, Maria) (Entered: 05/20/2003)

05/27/2003	<u>101</u>	MOTION for New Trial by Suffolk County Sheriff's Department.(Simeone, Maria) (Entered: 05/29/2003)
05/27/2003	<u>102</u>	MOTION for Remittitur of damages or in the alternative a new trial by Suffolk County Sheriff's Department.(Simeone, Maria) (Entered: 05/29/2003)
05/27/2003	<u>103</u>	MOTION for Judgment as a Matter of Law by Suffolk County Sheriff's Department. (Simeone, Maria) (Entered: 05/29/2003)
05/27/2003	<u>104</u>	MOTION for Leave to File memorandum in excess of 20 pages by Suffolk County Sheriff's Department.(Simeone, Maria) (Entered: 05/29/2003)
05/27/2003	<u>105</u>	MEMORANDUM in Support re <u>103</u> MOTION for Judgment as a Matter of Law, <u>101</u> MOTION for New Trial, <u>102</u> MOTION Remittitur of damages or in the alternative a new trial filed by Suffolk County Sheriff's Department. (Simeone, Maria) (Entered: 05/29/2003)
05/27/2003	<u>106</u>	CERTIFICATE OF CONSULTATION re <u>103</u> MOTION for Judgment as a Matter of Law, <u>104</u> MOTION for Leave to File, <u>105</u> Memorandum in Support of Motion, <u>101</u> MOTION for New Trial, <u>102</u> MOTION Remittitur of damages or in the alternative a new trial by Kathleen M. Cawley on behalf of Suffolk County Sheriff's Department. (Simeone, Maria) (Entered: 05/29/2003)
05/27/2003	<u>107</u>	MOTION for Attorney Fees and costs by Bruce Baron.(Simeone, Maria) (Entered: 05/29/2003)
05/28/2003	<u>108</u>	Corrected AFFIDAVIT of Francis J. Dimento, Jr.. (Simeone, Maria) (Entered: 05/29/2003)
05/30/2003		Judge Patti B. Saris : Electronic ORDER entered granting <u>104</u> Motion for Leave to File memorandum in excess of 20 pages (Simeone, Maria) (Entered: 05/30/2003)
06/02/2003	<u>109</u>	Judge Patti B. Saris : ORDER entered. Order of Costs entered for Attorney Francis J. DiMento, Jr. in the amount of \$859.55. (Alba, Robert) (Entered: 06/02/2003)
06/05/2003		Judge Patti B. Saris : ORDER entered granting re <u>104</u> MOTION for Leave to File memorandum filed by Suffolk County Sheriff's Department(Simeone, Maria) (Entered: 06/05/2003)
06/10/2003	<u>110</u>	MEMORANDUM in Opposition re <u>102</u> MOTION Remittitur of damages or in the alternative a new trial filed by Bruce Baron. (Simeone, Maria) (Entered: 06/12/2003)
06/10/2003	<u>111</u>	MEMORANDUM OF LAW in support of opposition by Bruce Baron to <u>110</u> Memorandum in Opposition to Motion. (Simeone, Maria) (Entered: 06/12/2003)
06/17/2003	<u>112</u>	MEMORANDUM in Opposition re <u>107</u> MOTION for Attorney Fees filed by Suffolk County Sheriff's Department. (Simeone, Maria) (Entered: 06/18/2003)
11/05/2003	<u>113</u>	Judge Patti B. Saris : ORDER entered MEMORANDUM AND ORDER. For the forgoing reasons, the defts motions <u>103</u> motion for judgement <u>102</u> motion for damages <u>101</u> motion for new trial are denied.(Simeone, Maria) (Entered: 11/06/2003)
11/06/2003		Civil Case Terminated. (Simeone, Maria) (Entered: 11/06/2003)

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# EXHIBIT B

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4 UNITED STATES DISTRICT COURT  
5 FOR THE DISTRICT OF MASSACHUSETTS

6 \* \* \* \* \*  
7 SHEILA J. PORTER, \*  
8 Plaintiff \*  
9 -vs- \* Civil Action  
10 ANDREA CABRAL, SUFFOLK COUNTY \* No. 04-11935-DPW  
11 SHERIFF'S DEPARTMENT, SUFFOLK \*  
12 COUNTY and CORRECTIONAL MEDICAL \*  
13 SERVICES, INC., \*  
14 Defendants \*  
15 \* \* \* \* \*

16 CONFIDENTIAL PURSUANT TO THE PROTECTIVE ORDER

17 DEPOSITION OF VIKTOR THEISS, ESQUIRE, a witness  
18 called on behalf of the Plaintiff, in the  
19 above-captioned matter, said deposition being  
20 taken pursuant to the Federal Rules of  
21 Civil Procedure, before Patricia M.  
22 McLaughlin, a Certified Shorthand Reporter and  
23 Notary Public in and for the Commonwealth of  
24 Massachusetts, at the offices of Goodwin Procter  
LLP, Exchange Place, Boston, Massachusetts, on  
Tuesday, May 24, 2005, commencing at 10:05 a.m.

25 McLAUGHLIN & ASSOCIATES COURT REPORTERS  
26 92 DEVIR STREET, SUITE 304  
27 MALDEN, MASSACHUSETTS 02148  
28 781.321.8922  
29 WWW.E-STENOGRAPHER.COM

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1 APPEARANCES: 2  
2 DAVID S. SCHUMACHER, ESQUIRE  
3 and  
4 JOSEPH F. SAVAGE, JR., ESQUIRE  
5 GOODWIN PROCTER LLP  
6 Exchange Place  
7 Boston, Massachusetts 02109  
8 On behalf of the Plaintiff  
9 ELLEN CAULO, ESQUIRE  
10 GENERAL COUNSEL  
11 Suffolk County Sheriff's Department  
12 200 Nashua Street  
13 Boston, Massachusetts 02114  
14 On behalf of the Defendants,  
15 Andrea Cabral, Suffolk County  
16 Sheriff's Department and Suffolk  
17 County  
18 ALEXANDRA B. HARVEY, ESQUIRE  
19 ADLER, COHEN, HARVEY, WAKEMAN & GUEKGUEZIAN  
20 230 Congress Street  
21 Boston, Massachusetts 02110  
22 On behalf of the Defendant,  
23 Correctional Medical Services, Inc.

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1 Sullivan, Gerry Leone and someone else. I

2 have no idea who.

3 Q The U.S. Attorney was there?

4 A Yes.

5 Q His first assistant was there?

6 A Yes.

7 Q Sheriff Cabral was there?

8 A Yes.

9 Q Various other people were there?

10 A Yes.

11 Q And you don't recall anything about this

12 meeting?

13 MS. CAULO: Objection.

14 MS. HARVEY: Objection.

15 A I recall what the topic was about. I recall

16 Huggard opening up a criminal statute book.

17 I was a pretty small player at that meeting,

18 and the shock of being told we were criminals

19 was pretty huge concerning that that's not

20 what we were told why we were going there

21 for.

22 Q Were you told that the meeting was going to

23 be for a specific purpose?

24 A It was related to me that the meeting was to

230

1 be about enhancing the relationship between

2 our two departments.

3 Q Who relayed that to you?

4 A I can't recall who. It probably would have

5 been the Chief of Staff.

6 Q Did you participate in any other meetings

7 with members of the U.S. Attorney's Office or

8 the FBI --

9 A No.

10 Q -- concerning Mrs. Porter's barring?

11 A No.

12 Q When you arrived at the House of Corrections

13 in February, 2003, was there a code of

14 silence at the House of Corrections?

15 MS. CAULO: Objection.

16 A Yes and no.

17 Q Can you explain?

18 A Yes, in the sense that if you're asking do

19 people come and volunteer and tell us what's

20 going on in the units? No. There is not a

21 lot of people running forward to tell us on a

22 daily basis what transpires, both officers

23 and inmates alike.

24 No, in the sense that it didn't strike

231

1 me as this pervasively negative atmosphere

2 where there was a whole separate world going

3 on that we had no knowledge about and that

4 people would come in and clam up and say I'm

5 not saying anything about this.

6 When we did interviews with officers,

7 they would respond to our questions. We

8 developed a pretty decent relationship with

9 the union, worked out questioning, and we

10 were getting responses. It was more like

11 people would answer what you were asking, and

12 if you kind of had your ducks in a row and

13 you had done some homework, people would tell

14 you where they were, what they were doing and

15 what they saw to a pretty decent extent.

16 Would I say it was a hundred percent,

17 where they were giving us everything we asked

18 for? No. But it wasn't like in the movies.

19 It wasn't that big a code of silence. Was it

20 an open atmosphere where officers would run

21 down and tell SID or their captains

22 everything? No.

23 Q What do you understand the phrase, code of

24 silence to mean?

232

1 A It means that when people see something or

2 are aware of something, they won't say

3 anything at any cost. When asked, they

4 deny.

5 Q Do you understand that the Stern Commission

6 report addressed the code of silence that

7 they believed was present at that time?

8 A I do. I wouldn't deny that there was

9 something there, but again, I don't feel it

10 was a pervasively evil atmosphere. I think

11 much of the Stern Commission was accurate,

12 but much of it was inaccurate. The people

13 that came to evaluate didn't a significant

14 amount of time. They didn't work the blocks.

15 So it wasn't as bad in some ways, but I'm not

16 going to lie and say that there was nothing

17 there.

18 Q Do you believe that a piece of the Stern

19 Commission report was not accurate?

20 MS. HARVEY: Objection.

21 MS. CAULO: Objection.

22 A I just answered that there was some accuracy

23 to it. To say that there was a pervasive

24 code of silence, my opinion when I came on

237

1 training, received a makeup academy training  
2 that would give them that basis, and we spend  
3 a tremendous amount of effort educating  
4 officers that it's critical to document, tell  
5 the truth, be a professional.

6 So in conjunction with aggressive  
7 investigation and aggressive discipline for  
8 failure to, I believe there is a change  
9 occurring.

10 Q Is it your understanding that retaliation  
11 against employees who report other employees  
12 misconduct that that was part of the code of  
13 silence?

14 A That would be an essential element to a code  
15 of silence.

16 MR. SCHUMACHER: Could I have five  
17 minutes? I might be done.

18 (Whereupon, a brief recess was held.)

19 MR. SCHUMACHER: Just a couple of  
20 clean-up questions, and then I'll send you on  
21 your way.

22 BY MR. SCHUMACHER:

23 Q The interview that took place between the SID  
24 investigators and Mrs. Porter, the first one

238

1 on May 22nd, do you know who was present at  
2 that interview?

3 A I don't have firsthand knowledge.

4 Q You don't know if anyone was there besides  
5 the investigators and Mrs. Porter?

6 A I don't.

7 Q How about the second interview, the May 25th  
8 interview?

9 A I don't.

10 MS. HARVEY: You mean May 29th.

11 MR. SCHUMACHER: I think it was May 26th  
12 actually, because there were three  
13 interviews.

14 Q You don't remember who was present at those  
15 interviews either?

16 A I don't.

17 Q Are you aware at the second interview between  
18 the SID and Mrs. Porter she was confronted  
19 with whether or not she had contacted the FBI  
20 concerning the Rosario allegations?

21 MS. CAULO: Objection.

22 A I'm not sure if she was confronted.

23 Q Was that topic discussed?

24 A Yes, it was in the report.

239

1 Q What is your understanding what took place  
2 with respect to that topic?

3 A Just if she contacted the FBI. I believe she  
4 knew Krista Snyder, talked to Krista Snyder.

5 Q Why would SID want to know whether or not  
6 Mrs. Porter had contacted Miss Snyder?

7 A My opinion it was curiosity on the part of  
8 Investigator Dacey and Aleman. They knew  
9 that the FBI had been contacted, and it  
10 wasn't self-evident from whom.

11 She had mentioned in a previous  
12 interview, she meaning Porter, that Rene had  
13 had some contact with the Federal Government.  
14 She brought up the wire on her own on the  
15 22nd, so I think it was curiosity.

16 It wasn't a major part of their  
17 investigation. They weren't ordered to do  
18 it. I just think it's curiosity to close out  
19 a loop, as you're doing today, and clearly,  
20 it was an interesting issue, particularly  
21 since what the FBI was coming back to us with  
22 didn't match up with what was in the file.

23 Q Do you recall the SID investigators then  
24 report to you with regard to their

240

1 conversation with Mrs. Porter?

2 A If you're asking did they come running to me  
3 and saying we got her, we got her? No. I  
4 don't recall them coming to me on it. I know  
5 it's in the report. So exactly when I would  
6 have known, I don't recall. It would have  
7 been shortly thereafter.

8 Q So you recall that shortly after that  
9 interview you learned of what Mrs. Porter  
10 told the SID investigators that day?

11 A Correct.

12 Q With respect to her communications with the  
13 FBI?

14 A Yes. The case was almost due to be resolved.  
15 When they wrapped it up, I reviewed it on  
16 June 2nd. So only a few days later, they  
17 were closing it up. In between the 29th and  
18 June 2nd, I would have read that report and  
19 talked to them.

20 Q Did you, in turn, tell either Miss Keeley or  
21 Sheriff Cabral anything concerning  
22 Mrs. Porter's communications with the FBI?

23 A Again, I don't recall doing so, but I may  
24 have.



# EXHIBIT C

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\*\*\*\*\*  
SHEILA J. PORTER, \*  
Plaintiff \*  
-vs- \* Civil Action  
ANDREA CABRAL; SUFFOLK COUNTY \* No. 04-11935-DPW  
SHERIFF'S DEPARTMENT; SUFFOLK \*  
COUNTY and CORRECTIONAL MEDICAL \*  
SERVICES, INC., \*  
Defendants \*  
\*\*\*\*\*

CONFIDENTIAL PURSUANT TO THE PROTECTIVE ORDER

DEPOSITION OF ELIZABETH KEELEY, ESQUIRE, a witness called on behalf of the Plaintiff, in the above-captioned matter, said deposition being taken pursuant to the Federal Rules of Civil Procedure, before Patricia M. McLaughlin, a Certified Shorthand Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the offices of Goodwin Procter LLP, Exchange Place, Boston, Massachusetts, on Wednesday, May 11, 2005, commencing at 10:08 a.m.

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APPEARANCES:

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On behalf of the Plaintiff

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Sheriff's Department and Suffolk

County

ALEXANDRA B. HARVEY, ESQUIRE

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230 Congress Street

Boston, Massachusetts 02110

On behalf of the Defendant,

Correctional Medical Services, Inc.

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2 1 Policy S220 78  
3 2 Case Summary, dated June 4,  
4 2003 112  
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and I also was told that someone from SID was speaking with the FBI to get their assistance in trying to put him somewhere else or have him be sent somewhere else.

Q What were the concerns that led Suffolk employees to believe that he should be transferred?

MS. CAULO: Objection. Asked and answered. You may answer.

A My impression was that someone who was known as an informant in a correctional facility, their personal safety could not be assured. It's like being a snitch. I understood that he was fairly vocal about his working with the FBI. So his personal protection would be a concern.

Q Were you involved in the efforts to get him transferred?

A No.

Q Who was involved in the efforts to get him transferred?

A Exactly, I don't know. I know that Viktor Theiss spoke to me that he -- and I recall hearing Stan Wotjonski's name being mentioned

1 Captain Socby would not have any interaction  
2 or any reason to be anywhere near Rene  
3 Rosario.

4 Q Did that, in fact, happen?

5 A It's my understanding that, yes, at some  
6 point the videotaping took place.

7 Q How long did Rene Rosario remain in the  
8 facility until he was transferred from that  
9 meeting on approximately?

10 A Well, I don't recall when that conversation  
11 took place, but I believe he was moved out  
12 around June 11th. So it would have been a  
13 week or more, I think.

14 Q What was the purpose of the recommendations  
15 or actions that you took?

16 MS. CAULO: Objection. Asked and  
17 answered.

18 Q You can answer.

19 A The one about videotaping him?

20 Q Yes.

21 A To protect both Rene Rosario and the officers  
22 from any concerns about how he was treated or  
23 any actions by the officers or Rene Rosario.

24 Q At some point did you learn that Mr. Rosario

18

as people that were making calls.

Q So that was reported, but you weren't directly involved in facilitating getting him transferred?

A Correct.

Q Were any special procedures put in place for Rene Rosario given his status as a federal informant?

A Yes.

Q What were those?

A At some point I had a conversation with then Superintendent Pat Bradley. After I had heard that Rene Rosario had complained that a Captain Socby had threatened him and that he was -- that he had threatened him. So this was perhaps a few days after I first learned of Rene Rosario's presence in the facility.

Q I spoke with Superintendent Bradley, and we talked about precautions that we could take until Rene Rosario was moved. We agreed that his movements would be videotaped and there would always be two officers present with him and their movements and conversation with him would be videotaped and that

20

1 had made certain allegations of mistreatment  
2 by officers in May, 2003?

3 A Yes.

4 Q When did you learn of these allegations?

5 A I don't recall the exact date.

6 Q Approximately?

7 A Well, it was after I learned that he was back  
8 in the facility, and I would say  
9 approximately a week or so after -- well,

10 maybe not a week. Less than a week, but more

11 than, say, a day or two. So maybe between

12 three and five days after learning he was

13 back in the facility, I learned that there

14 had been allegations made by Rene Rosario.

15 Q How did you learn of these allegations?

16 A From Viktor Theiss.

17 Q Was it a meeting that you had with  
18 Mr. Theiss?

19 A I don't recall, no.

20 Q What did you understand his allegations to  
21 be, Mr. Rosario's allegations?

22 A That a correctional officer or officers --  
23 I'm not entirely sure -- had assaulted him.

24 Q And you had mentioned earlier that he alleged

49

A What she had expected? I don't recall anything.

Q Did she tell you that she had requested a report from Miss Porter?

A My memory is that the report was requested by SID. There may have been a request made by Mary Ellen, but I understood this report being filed in the context of the SID investigation.

Q When you say the report was requested by SID, which person would have requested the report?

A Whoever was conducting the investigation for -- and I don't know which person would have asked for the report. I just assumed that we had asked for the report, we, SID; someone in SID had asked for the report.

Q Do you have personal knowledge that SID requested a report from Mrs. Porter?

A Do I?

Q Yes.

A No.

Q Do you have personal knowledge -- and I apologize if this has been asked already -- whether or not Miss Mastroilli requested a

50

report from Mrs. Porter?

A Not that I recall.

Q You know that a report was requested, and you believe that it was SID that requested that report; is that fair to say?

A Yes, at some point I also understood that Mary Ellen was also looking for the report. I thought she was just trying to get the report. I didn't know that she was specifically involved with asking for the report.

Q Did Viktor Theiss ever tell you that SID had requested a report from Miss Porter?

A I don't have a memory of that, no.

Q Did Viktor Theiss ever tell you that he had requested a report from Miss Porter?

A I don't have a memory of that, no.

THE COURT: Why don't we take a five-minute break.

(A brief recess was held.)

THE COURT: During your conversation with Viktor Theiss, I believe you testified that you believed the facts and the

51

1 circumstances of Miss Porter's involvement in

2 the Rosario matter as you understood them; is

3 that correct?

4 A Correct.

5 Q What did you relay to her? What were the

6 facts and circumstances as you understood

7 them at that point?

8 A I understood that Nurse Porter had made

9 observations of Rene Rosario while he was in

10 the infirmary and had reported something

11 about that encounter to the FBI but that she

12 had failed to document the medical file; that

13 she had not timely filed a report as required

14 and requested; that the report contained

15 information about injuries that were

16 inconsistent with what other medical

17 personnel had described and what other people

18 involved in the investigation had described

19 were visible on Rene Rosario. That's what I

20 recall talking to the Sheriff about

21 specifically about the investigation.

22 I'm trying to think if there is anything

23 else. I don't remember whether or not -- I

24 don't remember right now whether or not I

52

1 also spoke to the Sheriff at that time about

2 information that I had learned towards the

3 end of the investigation. It was actually

4 the last bit of information that I heard, but

5 in my mind was significant, and that was that

6 Rene Rosario had in his conversations with

7 people, officers, maybe investigators -- but

8 I think it was officers -- not only talked

9 about his being an informant for the FBI but

10 spoke of Nurse Porter. I recall hearing

11 something to the effect that he spoke

12 publicly to people about her cooperation with

13 the FBI; that she had either wired him or

14 that she was wired on occasion or she was

15 cooperating with the FBI.

16 It was that piece of information that

17 was significant to me in terms of bringing

18 the subject of harm to the Sheriff's

19 attention.

20 Q So your purpose in relating these facts and

21 circumstances to Sheriff Cabral was based on

22 this last piece of information that you

23 described?

24 MS. CAULO: Objection.

A No, that's why I'm saying I'm not sure that I spoke to the Sheriff about it. I just know that, when it came to my attention, that that information came to my attention about what Rene Rosario was saying, even though I knew at that point he was not a credible reporter and I didn't know that what he was saying was true, but that if it was heard by people, that it would put Nurse Porter's personal safety at issue.

Because I don't recall when the conversation with the Sheriff -- whether she initiated the discussion about Nurse Porter or I did, in my memory what sort of advanced the decision-making process as to what to do, that piece of information was important.

Q So you don't recall whether you initially brought up Nurse Porter during this conversation or whether are the Sheriff did?

A I don't. I honestly don't.

Q When the topic came up, just to be clear, what was the purpose for discussing Nurse Practitioner Porter at that time?

A Because of the serious nature of the

in the Rosario matter?

MS. CAULO: Objection.

A I don't know when she became aware. I know that in that conversation she had recently had conversation with Viktor Theiss, and I don't know to what extent Nurse Porter came up in that conversation. But she seemed to be aware of what I was discussing.

Q What did Sheriff Cabral say in response to your opinion?

A I recall at one point she asked me, well, how does that happen; if we are to bar her, how does that happen.

Q What did you say in response?

A My memory is I said that we notify the individual and then a written notice is given to the shift commander.

Q Did she say anything else with regard to Miss Porter at this time?

A I recall that she said that she should be barred.

Q Did she explain why she thought that she should be barred?

A I don't recall what she said. I know we

violations to decide what action would be taken.

Q I believe you testified before that you had an opinion about what action should be taken; is that right?

**A** Yes.

Q What was your opinion?

A My opinion was that we should bar her from the facility.

Q And you related that to Sheriff Cabral?  
Yes.

you tell her what that opinion was based

I remember it was based on what I had just described and the concerns that a nurse would not document a medical file; that that was not a really egregious; that not documenting something inconsistent with what you hear from the police is significant, particularly in light of the information on an investigation into the alleged sexual misconduct or sexual abuse of an individual.

10 Sheriff Cabral  
11 Involvement

discussed it, and she articulated her feelings about it. But I don't remember what she said.

Q Was it your understanding that it was your responsibility to carry out the barring?

A Yes.

Q What steps did you take to put that into effect?

A I called Deputy Superintendent Mary Ellen  
Mastrorilli.

Q Why did you call Miss Mastrorilli?

A Because she would have been the person in the chain of command who would have had oversight over medical. She was in charge of medical at the time. So the OMS employees or contractors would be under her supervision.

Q Did you call Miss Mastrorilli?

A Yes, that is my memory, yes, that I called her and told her that the decision had been made to bar Sheila Porter.

Q How soon did that call take place after your meeting with Sheriff Cabral?

A I don't think it was too much -- I mean, if the conversation with Sheriff Cabral happened

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called Mary Ellen Mastroirilli back.

Q What transpired during your conversation with Miss Powers?

MS. CAULO: Objection. Attorney client.

Q The purpose of your conversation with Miss Powers, was she relating legal advice to you at that time?

MS. CAULO: Objection.

A Yes.

Q After you looked at S220, did you contact Miss Mastroirilli again?

A Yes, I had it open in front of me. My memory is I picked up the phone, and I called Mary Ellen. And I told her the reasons that she could give or share with Sheila Porter.

Q What were those reasons?

A The reasons, as I recall, were she was -- you can tell her she's being barred for violations of S220. I remember that I was flipping through S220 and Section C, which has to do with -- confidential communications was first, so I may have mentioned that first; that she had communicated confidential inmate information outside the department. I

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flipped through some more pages, and I remember telling her her failure to file a timely report, her failure to document a medical file. And I remember that -- again, I'm not sure of the order, but it was failure to document a medical file, failure to file a timely report.

I may have mentioned that her failure to file a report -- my memory is that I said this: That failure to file a report interfered with an ongoing investigation; that her report was inconsistent with other reports of what people claim to have seen in terms of injuries to Rene Rosario, so that it was not a credible report.

I remember hesitating, because I wasn't sure whether I wanted to say this, but I remember pausing. And I said, "And you can share with her that because Rene Rosario has been talking about his role as an informant and he has mentioned her name in the context of cooperating with the FBI, that the department could not assure her personal safety."

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Q These were all factors that you related to Miss Mastroirilli during this conversation?

A Yes, that's my memory of what I said to her.

Q Did you instruct her to relate this information to Mrs. Porter as the reasons for her barring?

A I don't think I said "now tell her exactly what I just told you," but she asked me what the reasons were that she could give and that's what I told her.

Q And these are all included in the reasons that could be related to Miss Porter?

A Correct.

Q Do you know if Miss Mastroirilli, in fact, did relay this information to Mrs. Porter?

A I don't know what she said to her.

Q Did you have any follow-up conversations with Miss Mastroirilli?

A I recall having one.

Q What happened during that follow-up conversation?

A It was maybe a week or two later. It was after the meeting at the U.S. Attorney's Office. I know that. I asked her,

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"Mary Ellen, did you write down the reasons that I gave you?" She said no. That was the one and only conversation I have had with Mary Ellen Mastroirilli about this since.

Q Did you talk about anything else during this final conversation other than whether she documented the reasons that you had provided for her?

A I don't recall, but I think that was the extent of the conversation.

Q If I have this right, I've counted four communications with Miss Mastroirilli on or after June 10th. The first was when you called her to tell her to bar Sheila Porter?

A Yes.

Q The second was when Miss Mastroirilli called you back to say that Miss Porter wanted to know the reasons why she was barred, and you said you'd get back to her?

A Correct.

Q The third was when you called her back after speaking with General Counsel and reviewing S220.

MS. CAULO: I object. I'm sorry.



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practice and overall conduct of a person who is in a trusted position, a medical position, in a correctional facility, you need to be able to rely and trust completely in that person's judgment, the quality of care they perform. So it wasn't just \$220.

Q Where do you get your understanding of good medical conduct from?

A My experience as an attorney, as a prosecutor, reviewing medical records and having to present cases in which the treatment and diagnosis of an individual is critical to establishing causation.

Q You don't personally have a medical background?

A No, I said that already.

Q With regard to whether or not Mrs. Porter was required to report her observations in Mr. Rosario's medical file, did you consult any medical or nursing guidelines to determine if that was required?

A No, I didn't.

Q Did you consult with any of CMS's materials to determine whether or not that was

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required?

A When you say that was required, that means to make notation in a patient's medical file?

Q Correct.

A No.

Q It was based on what your understanding was of good medical conduct; is that right?

MS. CAULO: Objection.

A It was based on the totality of the circumstances and common sense and expectation that in a correctional facility, when inmates allege that they have been abused and claim to have injuries, that those need to be documented, not only in a medical file, but reported immediately. This wasn't somebody complaining of a toothache. The accusations that he made were serious, and we were investigating them. We needed to rely on everyone's ability to do their job.

Q A final reason I believe you testified of why you believe Mrs. Porter should be barred was because Mr. Rosario had been telling people that Sheila Porter had cooperated with the FBI; is that right? Did I get that right?

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1 MS. CAULO: Objection to the term,  
2 reason.  
3 A As I've indicated, it was an additional piece  
4 of information that I had that I felt was  
5 significant, in that it concerned the  
6 department's ability to provide personal  
7 safety for Nurse Porter. I didn't know the  
8 specifics of what Rene Rosario said, only  
9 that I learned that he had said he had been  
10 very open about himself being an informant;  
11 he was proud of that; he expected something  
12 because of it; and that he had spoken  
13 publicly about Sheila Porter and her  
14 involvement with him and his being wired.  
15 Again, as I said before, I don't recall  
16 the specifics, but something about either her  
17 working with the FBI. Not knowing whether  
18 that was true or not, a rumor like that in a  
19 correctional facility is extremely  
20 problematic.  
21 Q When you say Mr. Rosario was publicly telling  
22 people this, what do you mean?  
23 A My understanding -- I heard this from Viktor  
24 Theiss -- was that Rene Rosario was talking

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1 to people during either interviews or any  
2 encounters people would be having, staff,  
3 correctional officers, whenever was having  
4 dealings with him; that he spoke openly about  
5 his involvement with the FBI.  
6 Q As well as Mrs. Porter's, correct?  
7 A At some point, yes. I don't know that he did  
8 that all along, but at some point -- as I  
9 said, it was towards the end of the  
10 investigation that I learned.  
11 Q Because of that, you believed that  
12 Mrs. Porter's safety might be endangered if  
13 people within the corrections environment  
14 knew that?  
15 A I thought so, yes.  
16 Q And was this something that you discussed  
17 with Sheriff Cabral during your meeting?  
18 A Again, I don't have -- I don't know if I  
19 mentioned that or not. My memory is I know  
20 that was a factor in my mind. It was a fact.  
21 I can't be sure that I shared it with her.  
22 Q But you did share it with Miss Mastrorilli?  
23 A Yes.  
24 Q Would you have been likely to tell